

BILLY KRUMBEIN

IBLA 85-532

Decided June 30, 1986

Appeal from a decision of the New Mexico State Office, Bureau of Land Management, rejecting high bid for competitive oil and gas lease. NM A-60826 (TX).

Affirmed.

1. Oil and Gas Leases: Competitive Leases -- Oil and Gas Leases:
Discretion to Lease

The Board will affirm a BLM decision rejecting a high bid for a competitive oil and gas lease where the appellant fails to overcome, by a preponderance of the evidence, BLM's prima facie showing of the accuracy of its estimated fair market value for the offered parcel and where appellant fails to establish that its bid reasonably reflects fair market value.

APPEARANCES: Billy Krumbein, pro se.

OPINION BY ADMINISTRATIVE JUDGE FRAZIER

Billy Krumbein has appealed from a decision of the New Mexico State Office, Bureau of Land Management (BLM), dated March 12, 1985, rejecting his high bid for competitive oil and gas lease NM A-60826 (TX).

Appellant was the high bidder for parcel No. 82, consisting of 40.90 acres of acquired land situated in Burleson County, Texas, with a bid of \$1,280 (\$31.30 per acre). By memorandum dated January 10, 1985, the Deputy State Director, Mineral Resources, informed the Deputy State Director, Operations, that the Southwest Region Evaluation team (SRET) had recommended that appellant's bid for parcel No. 82 "be rejected."

By notice dated January 17, 1985, BLM informed appellant that his bid was "lower than the presale estimate of value (PEV) assigned to that parcel by this office and is being considered for probable rejection." BLM stated that it was affording appellant the opportunity to submit additional information supporting his bid as "reasonable," within 15 days from receipt of the notice. On February 15, 1985, appellant responded, arguing that his bid was consonant with the fact that the oil and gas market is "depressed," the sale

received only two bids, other parcels in the Hardeman Survey tract (A-140) received low or no bids, additional acreage is needed to drill given spacing requirements, and the productivity of "numerous wells" in the "Austin Chalk trend" is "short-lived."

By memorandum dated March 8, 1985, the Acting Chief, SRET, recommended to the Chief, Mineral Leasing Unit 1, that appellant's bid rejected. The memorandum explained that SRET had established a PEV of \$20,450 (\$500 per acre) for parcel No. 82 using a "Monte Carlo" discounted cash flow (DCF) analysis and "[i]ndustry accepted parameters for drilling costs, taxes, operating costs, reserve estimates, oil and gas prices, etc." The estimate of value was reduced to \$12,270 (\$300 per acre) following a post-sale review "due to revised drilling costs, gas prices, and risk factors." The memorandum stated that SRET had considered appellant's "comments." The memorandum recommended rejection of appellant's bid because it was "substantially below the presale and post-sale estimates of value." In its March 1985 decision, BLM rejected appellant's bid.

In his statement of reasons for appeal, appellant again contends that the actual value of parcel No. 82 is "substantially lower than that indicated by the presale evaluations and post-sale review" given the lack of interest in the parcel, spacing requirements, the depressed market, and the "high risks and short-lived productive history of numerous wells in this area."

[1] The Secretary of the Interior has the discretionary authority to reject a high bid for a competitive oil and gas lease where the bid does not represent the fair market value of the offered parcel. 30 U.S.C. § 226(b) (1982); 43 CFR 3120.5(a); Suzanne Walsh, 91 IBLA 119 (1986), and cases cited therein. A BLM decision rejecting a high bid will be affirmed where there is a rational basis for the conclusion that the high bid does not represent the fair market value of the parcel. Suzanne Walsh, *supra*. An appellant has the burden of establishing by a preponderance of the evidence that not only is the BLM evaluation inaccurate but appellant's bid represents the fair market value of the parcel. Viking Resources Corp., 80 IBLA 245 (1984).

In the present case, BLM has not provided much information regarding its presale or post-sale evaluations of parcel No. 82 except to say that it used the Monte Carlo DCF analysis and "available geologic data related to the parcel and * * * production data of wells near the parcel." BLM also stated that it considered comparable lease sales. BLM, however, revealed its presale and post-sale estimates of value, which are substantially higher than appellant's bid. BLM stated that the remaining data is "being maintained in the SRET's Proprietary/Confidential Information Files." We conclude that the record is sufficient to raise a prima facie case in favor of rejection of appellant's bid. See The Westlands Co., 83 IBLA 43 (1984). The burden devolved to appellant to establish that BLM's evaluation was inaccurate and that appellant's bid represents the fair market value of parcel No. 82.

Appellant, however, has not specifically challenged BLM's use of the Monte Carlo DCF analysis or presented any data which would tend to rebut the BLM analysis. Moreover, appellant has offered no alternative method for

calculating the fair market value of parcel No. 82. Particularly, appellant has not indicated how a lack of interest in bidding on the parcel or nearby parcels, 1/ the depressed state of the market, spacing requirements, and the area's production history translate into a fair market value or that BLM failed to take these variables into account. Appellant has simply not established that his bid represents fair market value or that BLM's estimate is inaccurate. We conclude that BLM properly rejected appellant's high bid. See Petrovest, Inc., 88 IBLA 166 (1985).

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Gail M. Frazier
Administrative Judge

We concur:

Wm. Philip Horton
Chief Administrative Judge

C. Randall Grant, Jr.
Administrative Judge

1/ Bids submitted in a competitive oil and gas lease sale are not necessarily probative of the fair market value of an offered parcel. See Viking Resources Corp., supra at 247-48. Accordingly, in reviewing a BLM rejection of a high bid, we generally attribute little weight to the amounts of other bids for the offered parcel. However, in certain circumstances, BLM has, as a matter of policy in deciding whether to accept a marginal bid, determined to take certain other "probative" bids into account. See Instruction Memoranda 85-490, dated May 29, 1985, and 85-182, dated Dec. 20, 1984; Ronald C. Agel, 83 IBLA 76, 77-78 (1984). That policy is not applicable herein.

